



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0081]

Agency Information Collection Activities; Renewal of an Approved Information Collection: Safe Driver Apprenticeship Pilot Program

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the information collection request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The FMCSA request approval to renew an ICR titled, “Safe Driver Apprenticeship Pilot Program.” This ICR was previously approved under emergency procedures on January 24, 2022, and expires on July 31, 2022. The ICR is necessary for FMCSA to conduct a pilot program to determine the safety impacts of allowing 18- to 20-year-old commercial driver’s license (CDL) holders to operate commercial motor vehicles (CMVs) in interstate commerce. The ICR will cover data collected on drivers and carriers participating in the pilot program.

DATES: Comments on this notice must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA-2022-0081 using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- Fax: 1-202-493-2251.
- Mail: Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC, 20590-0001 between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>, and follow the online instructions for accessing the docket, or go to the street address listed above.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the “FAQ” section of the Federal eRulemaking Portal website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after

submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Nicole Michel, Office of Analysis Research and Technology/Research Division, DOT, FMCSA, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; 202-366-4354; nicole.michel@dot.gov.

SUPPLEMENTARY INFORMATION:

Background: Current regulations on driver qualifications (49 CFR part 391.11(b)(1)) state that a driver must be 21 years of age or older to operate a CMV in interstate commerce. Currently, drivers under the age of 21 may operate CMVs only in intrastate commerce subject to State laws and regulations.

Section 23022 of the Infrastructure Investment and Jobs Act (IIJA), requires the Secretary of Transportation to conduct a commercial driver Apprenticeship Pilot Program. An *apprentice* is defined as a person under the age of 21 who holds a CDL. Under this program, these apprentices will complete two probationary periods, during which they may operate in interstate commerce only under the supervision of an experienced driver in the passenger seat. An *experienced driver* is defined in section 23022 as a driver who is not younger than 26 years old, who has held a CDL and been employed for at least the past 2 years, and who has at least 5 years of interstate CMV experience and meets the other safety criteria defined in the IIJA.

The first probationary period must include at least 120 hours of on duty time, of which at least 80 hours are driving time in a CMV. To complete this probationary period, the employer must determine competency in:

1. Interstate, city traffic, rural 2-lane, and evening driving;
2. Safety awareness;
3. Speed and space management;

4. Lane control;
5. Mirror scanning;
6. Right and left turns; and
7. Logging and complying with rules relating to hours of service.

The second probationary period must include at least 280 hours of on-duty time, including not less than 160 hours driving time in a CMV. To complete this probationary period, the employer must determine competency in:

1. Backing and maneuvering in close quarters;
2. Pre-trip inspections;
3. Fueling procedures;
4. Weighing loads, weight distribution, and sliding tandems;
5. Coupling and uncoupling procedures; and
6. Trip planning, truck routes, map reading, navigation, and permits.

After completion of the second probationary period the apprentice may begin operating CMVs in interstate commerce unaccompanied by an experienced driver.

In addition to data regarding successful completion of the probationary periods, the IJA requires data collection for data relating to any incident in which a participating apprentice is involved as well as other data relating to the safety of apprentices.

Additional data will include crash data (incident reports, police reports, insurance reports), inspection data, citation data, safety event data (as recorded by all safety systems installed on vehicles, to include advanced driver assistance systems, automatic emergency braking systems, onboard monitoring systems, and forward-facing and in-cab video systems) as well as exposure data (record of duty status logs, on-duty time, driving time, and time spent away from home terminal). This data will be submitted monthly through participating motor carriers.

The data collected will be used to report on the following items, as required by section 23022:

1. The findings and conclusions on the ability of technologies or training provided to apprentices as part of the pilot program to successfully improve safety;
2. An analysis of the safety record of participating apprentices as compared to other CMV drivers;
3. The number of drivers that discontinued participation in the apprenticeship program before completion;
4. A comparison of the safety records of participating drivers before, during, and after each probationary period; and
5. A comparison of each participating driver's average on-duty time, driving time, and time spent away from home terminal before, during, and after each probationary period.

FMCSA will monitor the monthly data being reported by the motor carriers and will identify drivers or carriers that may pose a risk to public safety. While removing unsafe drivers or carriers may bias the dataset, it is a necessary feature for FMCSA to comply with § 381.505, which requires development of a monitoring plan to ensure adequate safeguards to protect the health and safety of pilot program participants and the general public. Knowing that a driver or carrier was removed from the pilot program for safety reasons will help FMCSA minimize bias in the final data analysis.

FMCSA and the Department of Labor's Employment and Training Agency (DOL/ETA) will be partnering in the implementation of the Safe Driver Apprenticeship Pilot Program (SDAP). All motor carriers who are approved for the program by FMCSA will also be required to become Registered Apprenticeships (RAs) under 29 CFR part 29 before they can submit information on their experienced drivers and apprentices. The

information collection burden for the DOL/ETA RA Program can be found in approved ICR 1205-0223.

The statutory mandate for this pilot program is contained in section 23022 of the IIJA. FMCSA's regulatory authority for initiation of a pilot program is § 381.400. The Apprentice Pilot Program supports the DOT strategic goal of economic strength while maintaining DOT and FMCSA's commitment to safety.

On January 7, 2022, FMCSA published a notice in the *Federal Register* seeking public comment on the emergency approval of this ICR (87 FR 1001). A total of 144 comments were received on that notice, which are summarized here.

- Of the 144 comments received, 134 comments were from individuals while 10 comments were from organizations, associations, or motor carriers.
- A total of 31 comments supported the SDAP, which consisted of 25 individuals and 6 organizations, associations, or motor carriers.
- A total of 102 comments were opposed to the SDAP, which consisted of 98 individuals and 4 organizations, associations, or motor carriers. The majority of these comments cited previous studies showing age as a factor in safe driving performance, concerns that drivers would not be compensated properly, or that the industry would “take advantage” of younger drivers.
- A total of 11 comments, all from individuals, were neutral towards the SDAP.

Several comments provided recommendations on how to conduct the pilot program. These are summarized below.

- **Recommendation:** Extend the probationary period to 6 months.

Response: While there is no prohibition toward individual carriers, or even individual drivers on a case-by-case basis having the probationary period extended, FMCSA has decided this would fundamentally alter the intention

behind section 23022 of the IIJA and therefore has not included this recommendation as part of the pilot program design.

- **Recommendation:** Require additional performance benchmarks, such as mountainous driving.

Response: FMCSA does not consider mountainous driving to be broad enough to be required by all apprentices, as some may never require mountainous driving. These additional performance requirements should be considered at the discretion of each carrier and experienced driver to impart the knowledge required for apprentices operating in each unique circumstance.

- **Recommendation:** Require that apprentices continue utilizing required technology throughout the entire pilot program.

Response: Apprentices will be required to continue operating a vehicle equipped with onboard monitoring systems (OBMS) until they turn 21 years old and no longer require an exemption to operate in interstate commerce. Regarding other technology, such as active braking collision mitigation systems and governed speed limiters, FMCSA has determined it is best to follow the requirements as laid out in the IIJA to enable naturalistic data collection of how these drivers would operate in a real-world setting. Furthermore, by requiring these technologies only during the apprenticeship period, data may be gathered to allow additional insights into the benefits of these technologies for this age group.

- **Recommendation:** Increase the requirements for experienced drivers to have 5 consecutive years with no violations, crashes, etc.

Response: FMCSA does not find benefit or reason to increase the requirement on experienced drivers from that which is described in the IIJA.

- **Recommendation:** Ensure experienced drivers are logged as on duty, not driving when monitoring apprentices.

Response: FMCSA agrees that experienced drivers must be logged as on duty, not driving when they are in the passenger seat observing apprentice drivers. This will be made clear to program participants.

- **Recommendation:** Visibly identify drivers with high visibility markings, such as stickers.

Response: FMCSA disagrees with this recommendation as it has the potential to bias the data collection by creating a potential for behavior changes in surrounding drivers that decreases the integrity of naturalistic data collection. Furthermore, this could impact the ability to properly compare safety performance of these drivers with other drivers.

- **Recommendation:** Revoke a driver's CDL and expel carriers for any crashes resulting in death, injury, or property damage. Substantial violations of program rules should have penalties including suspension of an experienced driver's CDL, suspension of apprentices from the program, and/or fines for motor carriers.

Response: FMCSA does not have the authority to revoke CDLs, as these are issued by State driver's licensing agencies. FMCSA retains the right to remove an exemption from a participating driver, carrier, or both if they are determined to present a safety concern. FMCSA cannot impose fines on a motor carrier for failing to meet the requirements of a voluntary pilot program; however, FMCSA retains the right to revoke a motor carrier's participation in the study if they fail to meet the requirements of the program.

- **Recommendation:** Add a requirement for becoming a registered apprentice with DOL.

Response: FMCSA agrees that participating carriers must have a registered apprenticeship with the DOL.

- **Recommendation:** Increase minimum rate of liability insurance to \$10

million for participating carriers.

Response: Minimum financial liability requirements are set by regulatory statute. FMCSA does not have the authority to increase this rate for participating carriers.

- **Recommendation:** Reduce monthly burden by clarifying what safety event data is required.

Response: FMCSA has clarified that the safety event data provided will be the summary of safety events (including participating driver identification, time, date, and type of safety event for each event) as opposed to all recorded video data. It is intended that this data will be the reduced data from a carrier's OBMS provider which can be used for coaching or training purposes.

- **Recommendation:** Have a hotline number to report violations of program rules.

Response: Participating drivers will be provided with information on how to report coercion or potential violations of the program through the research team.

- **Recommendation:** Conduct regular, anonymized surveys of trainers and apprentices to assess compliance.

Response: FMCSA is confident the monthly data provided as a requirement of participation in the study will illuminate any areas of non-compliance with the program.

- **Recommendation:** Carriers must submit electronic logs from electronic logging devices on a quarterly basis.

Response: Carriers are required to submit monthly exposure data that will cover the same information contained in electronic logs as well as additional information, such as days away from home duty station.

- **Recommendation:** FMCSA should produce guidance literature to orient all trainers and apprentices.

Response: FMCSA will develop materials for electronic distribution to participating carriers who can then provide this information to their participating drivers that contains information on participation requirements and contact information for the research team in case there are questions from the driver. Additionally, FMCSA will maintain the website (fmcsa.dot.gov/safedriver) with frequently asked questions and resources for participating carriers and drivers.

- **Recommendation:** FMCSA should establish an independent oversight board for the program composed of experienced drivers, industry stakeholders, and safety and training experts to meet quarterly and produce regular assessments of program safety.

Response: FMCSA will be reviewing safety data on a monthly basis to determine if there are any immediate safety concerns. As authorized by 49 CFR part 381, FMCSA may remove a driver, carrier, or terminate the program at any time if safety concerns are identified.

- **Recommendation:** FMCSA should require carriers, as a condition of their participation in the program, to report driver and trainer compensation during the time they are working in the program.

Response: Carriers will have to report compensation information on apprentice drivers to comply with the DOL RA requirements.

- **Recommendation:** Compensable working time should follow the definition recognized by the DOL's Wage and Hour Division.

Response: FMCSA does not have authority to regulate compensation or wages.

Additionally, some commenters felt that becoming a registered apprentice with DOL would be too burdensome and is an additional requirement that was not in the IIJA. While this requirement was not specifically part of the IIJA, FMCSA maintains that a registered apprenticeship with DOL is an important step in the safety and monitoring oversight of the SDAP to minimize the risk of apprentice drivers experiencing coercion, unfair wages, or other practices that could lead to unsafe behaviors from apprentice drivers.

Finally, there were several clarification questions received on the notice, which included the following:

- How will the control group be selected for comparison?

Response: FMCSA will not be collecting data on a specific control group for this study. FMCSA will be utilizing already existing data on current CMV operators to compare inspection and crash rates of known drivers as compared to the data collected on apprentice drivers. Additionally, FMCSA will analyze the safety performance of apprentices before, during, and after their probationary periods.

- How will FMCSA decide whether the SDAP should be extended, expanded, or discontinued in the final data analysis?

Response: FMCSA is restricted by the limitations in the IIJA as well as the limitations in 49 CFR part 381. Therefore, the SDAP will not be extended or expanded at any point. The study may be discontinued at FMCSA's discretion at any point.

- What quantitative safety metrics, if any, will be part of the final analysis? If crashes and fatalities occur during the program, will those be made public?

Response: FMCSA will conduct analysis on all data collected, to include crashes, inspections, and safety events. All analysis will be peer reviewed and contained in a final report. Crashes and fatalities occurring during the program will be contained in the analysis but identifying information on drivers will not be made public to ensure the research is conducted in an ethical manner that protects the privacy of participating individuals.

- Will FMCSA continue gathering data from apprentices once they begin operating CMVs in interstate commerce unaccompanied by an experienced driver?

Response: FMCSA will continue gathering data from apprentices until they turn 21 years old and no longer require an exemption to operate in interstate commerce.

Title: Safe Driver Apprenticeship Pilot Program

OMB Control Number: 2126-0075.

Type of Request: Renewal of an information collection previously approved under emergency authority.

Respondents: Motor carriers; drivers.

Estimated Number of Respondents: 14,830 total (1,600 motor carriers and 13,230 CMV drivers); 5,410 annually (1,000 carriers and 4,410 CMV drivers).

Estimated Time per Response: Application (motor carrier, apprentice driver, and experienced driver): 20 minutes; safety benchmark certifications: 15 minutes; monthly driving and safety data: 60 minutes; miscellaneous data submission: 90 minutes.

Expiration Date: July 31, 2022.

Frequency of Response: Application (motor carrier, apprentice driver, and experienced driver): once; safety benchmark certifications: twice for each apprentice driver; monthly driving and safety data: monthly; miscellaneous data submissions: monthly.

Estimated Total Annual Burden: 169,344 hours total, or 56,448 hours annually (motor carriers: 164,934 hours total, or 54,978 hours annually, which includes a one-time application, two safety benchmark certifications for each participating apprentice, and monthly driving and safety data on all participating apprentices as well as miscellaneous data submissions; drivers: 13,797 hours total, or 4,599 hours annually which includes a one-time application for experienced and apprentice drivers).

DEFINITIONS: N/A.

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The Agency will summarize or include your comments in the request for OMB's clearance of this ICR.

Issued under the authority of 49 CFR 1.87.

Thomas P. Keane,

Associate Administrator,

Office of Research and Registration.